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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 200420-0118]

RTID 0648-XA453

Fisheries of the Northeastern United States; Scup Fishery; Adjustment to the 2020 Winter II Quota

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; in-season adjustment.

SUMMARY: NMFS adjusts the 2020 Winter II commercial scup quota and per-trip Federal landing limit. This action is necessary to comply with Framework Adjustment 3 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan that established the rollover of unused commercial scup quota from the Winter I to Winter II period. This notice is intended to inform the public of this quota and trip limit change.

DATES: Effective October 1, 2020, through December 31, 2020.

FOR FURTHER INFORMATION CONTACT: Laura Hansen, Fishery Management Specialist, (978) 281-9225; or Laura.Hansen@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS published a final rule for Framework Adjustment 3 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan in the **Federal Register** on November 3, 2003 (68 FR 62250), implementing a process to roll over unused Winter I commercial scup quota (January 1 through April 30)

to be added to the Winter II period quota (October 1 through December 31) (50 CFR 648.122(d)). The framework also allows adjustment of the commercial possession limit for the Winter II period dependent on the amount of quota rolled over from the Winter I period. The Winter II period start date was changed from November 1 to October 1 as a part of Framework Adjustment 12 (83 FR 17314; April 19, 2018).

For 2020, the initial Winter II quota is 3,543,336 pounds (lb) (1,607 metric tons (mt)). The best available landings information indicates that 4,850,963 lb (2,200 mt) remain of the 10,027,597 lb (4,548 mt) Winter I quota. Consistent with Framework 3, the full amount of unused 2020 Winter I quota is being transferred to Winter II, resulting in a revised 2020 Winter II quota of 8,394,299 lb (3,808 mt). Because the amount transferred is between 4.5 and 5.0 million lb (2,041 mt and 2,268 mt), the Federal per trip possession limit will increase from 12,000 lb (5.4 mt) to 24,000 lb (10.9 mt), as outlined in the final rule that established the possession limit and quota rollover procedures for this year, published on May 15, 2020 (85 FR 29345).

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 648.122(d), which was issued pursuant to section 304(b), and is exempted from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be contrary to the public interest. This action transfers unused quota from the Winter I Period to the Winter II Period to make it accessible to the commercial scup fishery. If implementation of this inseason action is delayed to solicit prior public comment, the objective of the

fishery management plan to achieve the optimum yield from the fishery could be compromised. Deteriorating weather conditions during the latter part of the fishing year may reduce fishing effort, and could also prevent the annual quota from being fully harvested. This would conflict with the agency's legal obligation under the Magnuson-Stevens Fishery Conservation and Management Act to achieve the optimum yield from a fishery on a continuing basis, resulting in a negative economic impact on vessels permitted to fish in this fishery. Moreover, the rollover process being applied here was the subject of notice and comment rulemaking, and the range of potential trip limit changes were outlined in the final 2018 scup specifications that were published December 22, 2017; which were developed through public notice and comment. Based on these considerations, there is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delayed effectiveness period for the reasons stated above.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 9, 2020.

Jennifer M. Wallace,
Acting Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.